

JULIEN, MIRER, SINGLA & GOLDSTEIN, PLLC

ATTORNEYS AT LAW
1 WHITEHALL STREET 16TH FLOOR
NEW YORK, NEW YORK 10038

JEANNE MIRER
SETH GOLDSTEIN

TELEPHONE: (212) 231-2235
FACSIMILE: (646) 219-0946

RIA JULIEN
RETU SINGLA

July 9, 2023

Mr. Arthur Z. Schwartz
225 Broadway, Suite 1902
New York, New York 10007

Dear Mr. Schwartz:

We are in receipt of your letter threatening a lawsuit, the complaint, and the order to show cause against Chris Smalls and the Amazon Labor Union, which you presented on Friday July 7, 2023. Your letter included an ultimatum that if the ALU leadership did not agree to your clients' demands, the accompanying complaint and OSC would be filed on Monday July 10, 2023 at noon. You state that the purpose of your letter is to "avoid embarrassment" of a public filing. Thus, we understand that the purpose of the lawsuit is to cause public embarrassment to the ALU and Chris Smalls.

This lawsuit as written is frivolous. It is based on facts which your clients, especially Mr. Spence, know to be false. The true facts would have been easily discovered had you properly vetted your clients' claims. Filing a complaint containing facts which cannot be factually supported is nothing short of a fraud on the Federal Court.

Please consider this letter a pre-filing safe harbor letter. As you know, a 21-day safe harbor letter under Rule 11 is a necessary predicate to seeking Rule 11 sanctions against you. We will be providing you such a safe harbor letter as well as a proposed motion and brief seeking sanctions if you file the complaint. Safe harbor letters are designed to provide an opportunity to counsel to withdraw offending papers before sanctions are sought or imposed. This pre-filing letter gives you notice of the baseless nature of your threatened lawsuit. If you fail to heed the warning contained in this letter, you do so at your peril. This letter will be attached as Exhibit A to any post filing safe harbor letter and Rule 11 motion and brief for sanctions should you proceed.

The central premise of your lawsuit is that there is a "second" constitution which was formally adopted in June of 2022. See paragraph 35. It is this constitution which you claim is operative. You also allege that Mr. Spence was excluded from the meetings to about the "third" constitution. See paragraph 60, and that the third constitution is illegal.

Contrary to your claims, there never was an approved "second constitution." There was no meeting of the executive board and/or the membership to adopt any June 2022 constitution. The minutes of all meetings between June 2022 and July 2022 from the Executive Board show no

such meeting to adopt a constitution. (See attached.) Indeed, Mr. Spence is on tape admitting that he wrote the second constitution without authorization and knowing it was not final. Accordingly, your threatened complaint made for the improper purpose of embarrassment is not only frivolous and a fraud on the court, if filed, but also Mr. Spence's acts expose him to serious criminal and civil liability for the unauthorized filing of a fraudulent constitution.

A simple reading of the case history on the NLRB website shows that the trial on Amazon's objections took place day to day from June 13, 2022 to July 18, 2022 via Zoom at our Office. Mr. Spence acted as Party representative throughout that period and there was no meeting to discuss finalizing the Constitution which counsel had started with the Officers in May of 2022 but never completed and no meeting to adopt any such constitution.

Further your client Mr. Spence was not excluded from the writing of the operative December 2022 Constitution. I attach the following documents from the Recording Secretary Ms. Nieves, which show the notice of the meeting which was sent to the board, including Mr. Spence on November 6, 2022 noting there would be a meeting with the lawyers and the board to go over the Constitution, and a second zoom invitation sent to him on the 18th of November when he failed to appear at the meeting. Also attached is Mr. Spence's response, wherein he apologizes that he did not see the notice and had another appointment.

At no time in text did Mr. Spence question why the board was meeting on the constitution if he thought one had already been adopted. At the time of these discussions and until his resignation as secretary treasurer became effective on November 30, 2022, he was invited to all board meetings. (See Spence resignation letter.)

Thus, there is no question that the December 2022 Constitution was formally adopted and is the only operative constitution. The ALU is in compliance with the December 2022 Constitution.

To be clear, your client Mr. Spence, held several Officer positions and voluntarily resigned from being Secretary Treasurer. It was after he resigned but before his resignation was effective that it was discovered that he had improperly and unilaterally replaced the founding 2021 Constitution with a "June 2022" version.

Furthermore, none of your allegations regarding violations of the LMRDA are factually supported. As an initial matter, as you know, the ALU Constitution contains an exhaustion of remedies clause which you and your clients have chosen to ignore. At no point have any of your clients made any written complaint to the Union regarding the December 2022 Constitution by following the procedures laid out in the document. The Union has not denied anyone the right to vote, or denied anyone the right to speak out, nor has anyone faced discipline or expulsion.

As someone who claims to have 40-plus years' experience in labor law, Mr. Schwartz, you should know that when a new union is founded, it is critical that the officers and executive board of the union be the stewards of the institution until a first representational election can be held. The December 2022 Constitution details that internal elections will take place within 90 days of the ratification of the first Collective Bargaining Agreement. To be clear, the Certification of the ALU is still not recognized by Amazon.com Services and such matter is subject to impending

litigation by the Board. There is nothing about the way that the current officers have operated that is undemocratic in this phase of this nascent union's development.

Not mentioned at all by you or your clients is any concern for the entire membership and what your clients' self-interested actions will do to undermine a contract fight, which is on the horizon. Indeed, they totally disregard what they know will be the impact of bringing this internal dispute into the public arena. Seeking to embarrass the union by resort to an admittedly fraudulent document will ultimately have grave legal consequences for your clients and will strengthen Amazon's hand against the union and the members whom your clients claim to want to represent.

Your clients' actions are a gross violation of their duties of membership in Article 2.2 (e) of the constitution which requires members not to circulate false reports or gross and willful misrepresentations about the integrity of the Amazon Labor; advocate or commit or incite an act or series of acts which would injure the best interests of the Union. Continuing to circulate the false statement that the union violates the constitution is one such misrepresentation.

The Union leaders this morning reached out to the Caucus to ask for a meeting. For a group that claims to want to resolve matters, their response was unproductive.

Again, please consider this letter as a pre-filing safe harbor letter. Should you file, we will immediately send you a formal safe harbor letter and motion and brief in support of sanctions and vigorously pursue them as well as counterclaims related to Mr. Spence's falsification of the "second constitution." The actions you take have consequences broader than this case and any one who professes to support the labor movement should know not to take such a reckless action by filing a fraudulent case.

Sincerely,

Jeanne Mirer, on behalf of the ALU

Cc: Chris Smalls
Michelle Valentin Nieves
Claudia Asherman
Wilhelmina Shuler

June 1 2022

1 hour

Alu organizer meeting

**Attendance Jason martin Michael
Tristan angie Tristan chris Enlly
Justine Brima steve**

Agenda Pat Cioffi next steps,

**Zoom etiquette, discuss how
Avoid write ups and termination**

**we discussed appeals process protecting
ourselves inside of Amazon try to
do in direct roles document all
interactions with mangement,
Alu vest at all times.**

Action items

**How to get recognition, Juntienth pay ,jessica ramos bill and entire
group will attend labor notes**

Minutes taken by Michelle Valentin Nieves

June 2, 2022 time 1 hour

Attendance

angie Connor Derrick Gerald Chris maddie Brett mitch

Topic

mitch and Maddie ALU newsletter written by Mat Cusick

**disussion over-a newsletter written by mat Cuscick to the entire
Email list of JFK8 Mitch admitted to leaking sensitive executive
board information
to mat Cusick final warning was given to mitch and maddie .**

Minutes taken by Michelle Valentin Nieves

June 10, 2022

I hour

attendance Kathleen, Derrick Connor, angie, Chris,

Topic

New office space, all the eboard will have thier own office

We discussed the code of Conduct who will have spare keys ? Also all meetings beed to be scheduled and agreed upon .

No Pop Ups !

Payroll status TBD

Minutes taken by Michelle Valentin Nieves

No pop ups !

all

**Scheduled and
to**

agreed

Pay roil Status

June 27, 2022 1 hour

Attendance

Chris Derick Kathleen angie connor

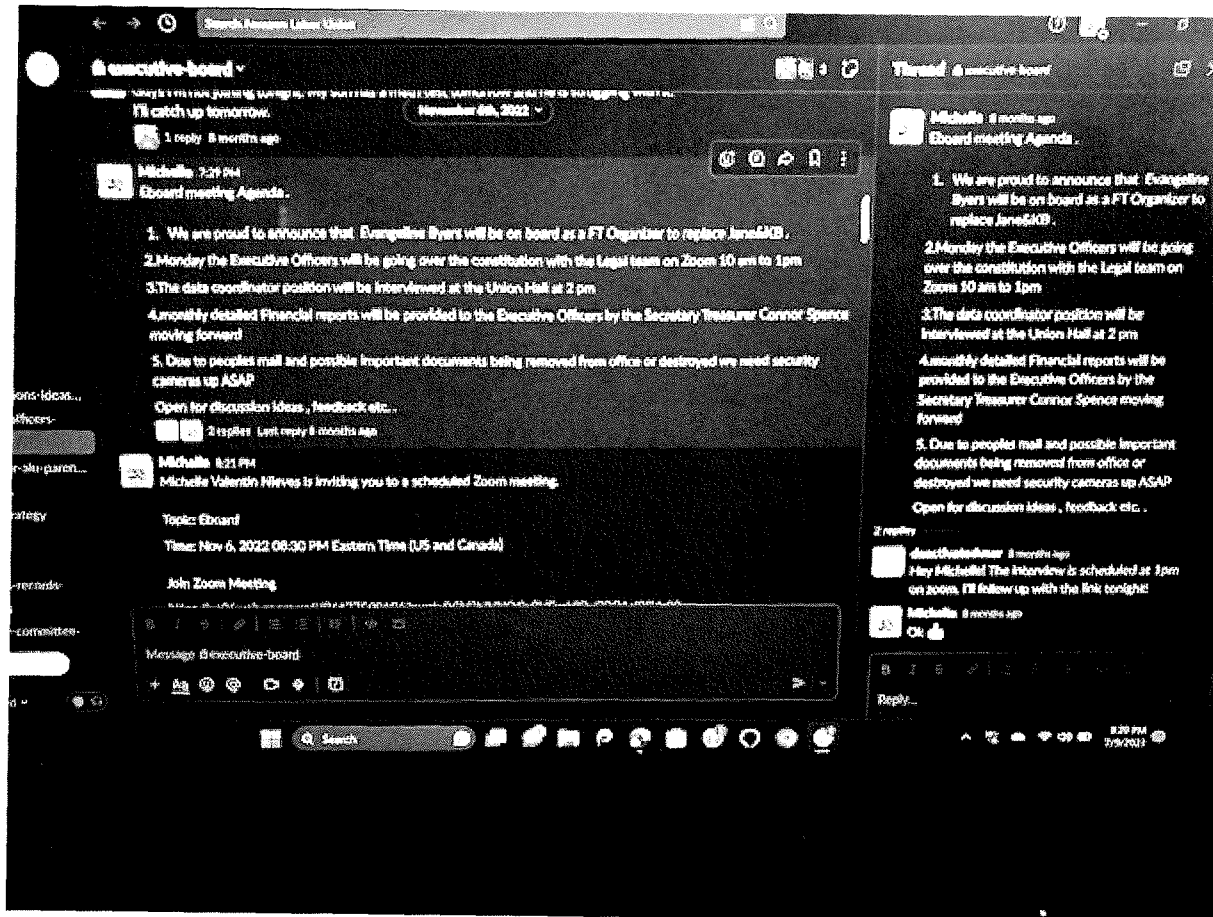
Eboard Budget meeting.

we discussed why connor wanted to pay pat cioffi a \$600.00 stipend for organizing when all of our other organizers are unpaid there was some back and forth between connor and angie , Chris stated the postal service union offered to donate 250k and he would keep us updated on that .

Minutes taken by Michelle Valrntin Nieves

7/9/23, 9:30 PM

IMG_5558.jpg



7/9/23, 9:09 PM

image1.jpeg

New iMessage

Cancel

To: Connor

Fri, Nov 18, 10:19 AM

Hey Connor we are doing the constitution

Michelle Valentin Nieves is inviting you to a scheduled Zoom meeting.

Topic: ALU Constitution and By laws

Time: Nov 18, 2022 10:00 AM Eastern Time (US and Canada)

Join Zoom Meeting

[https://us06web.zoom.us/j/](https://us06web.zoom.us/j/88969597048?pwd=d3YzSnhyNFR4MkZ4US9hR0w4Q1puZz09)

[88969597048?](https://us06web.zoom.us/j/88969597048?pwd=d3YzSnhyNFR4MkZ4US9hR0w4Q1puZz09)

[pwd=d3YzSnhyNFR4MkZ4US9hR](https://us06web.zoom.us/j/88969597048?pwd=d3YzSnhyNFR4MkZ4US9hR0w4Q1puZz09)

[0w4Q1puZz09](https://us06web.zoom.us/j/88969597048?pwd=d3YzSnhyNFR4MkZ4US9hR0w4Q1puZz09)

Meeting ID: [889 6959 7048](https://us06web.zoom.us/j/88969597048?pwd=d3YzSnhyNFR4MkZ4US9hR0w4Q1puZz09)

Passcode: [874050](https://us06web.zoom.us/j/88969597048?pwd=d3YzSnhyNFR4MkZ4US9hR0w4Q1puZz09)

One tap mobile

[+16465588656,,88969597048#](https://us06web.zoom.us/j/88969597048?pwd=d3YzSnhyNFR4MkZ4US9hR0w4Q1puZz09),



iMessage



7/9/23, 9:07 PM

image0.jpeg

To: Connor

Fri, Nov 18, 2:07 PM

Sorry I had an appointment this morning I didn't see it posted there was gonna be a call otherwise I would have rescheduled

Did you guys finish

Yeah we finished around 1

Retu may have emailed you too

Okay copy thanks

Sat, Nov 19, 8:17 AM

Some kind of alarm going off in the building right now, no word on what it is

In JFK8??? Or the office ??



iMessage



7/9/23, 9:10 PM

image0.jpeg

11/21/22

Amazon Labor Union
900 South Ave.
Suite 100
Staten Island, NY 10314

Re: Formal Resignation

As the executive board was informed in our virtual zoom meeting on November 6th, 2022, I will be resigning from my position as Secretary-Treasurer effective November 30th. Please accept this letter as formal notice.

Regards,
Connor Spence
848.210-0636